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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DISABILITY RIGHTS ADVOCATES
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WESTERN REGIONAL ADVOCACY
PROJECT, a nonprofit organization, and
CALVIN DAVIS, on behalf of himself and all
other individuals similarly situated, and
ANTHONEY COLEMAN, on behalf of
himself and all other individuals similarly
situated.

Plaintiffs,

v.

MAYOR GAVIN NEWSOM, in his official
capacity, BOARD OF SUPERVISORS OF
SAN FRANCISCO COUNTY, in their official
capacity,

Defendants.

Case No.: CV 08 4087

CLASS ACTION

**OPPOSITION OF PLAINTIFFS TO
DEFENDANTS' ADMINISTRATIVE
MOTION TO CONTINUE INITIAL CASE
MANAGEMENT CONFERENCE**

Judge: Hon. Maxine M. Chesney

1 Plaintiffs Western Regional Advocacy Project, Calvin Davis, and Anthony Coleman
 2 (“Plaintiffs”) hereby oppose the administrative motion of Defendants Mayor Gavin Newsom and
 3 the Board of Supervisors of San Francisco County (“Defendants”). Defendants seek to continue
 4 the initial case management conference for this proceeding. Pursuant to its established
 5 procedures, this Court already has scheduled the case management conference for December 5,
 6 2008. Defendants request that it be delayed to January 9, 2009, which would prevent the case
 7 management conference from being held until over four months after the filing of the Complaint.

8 The sole basis for Defendants’ request is their filing of a motion to dismiss. A mere hope
 9 of Defendants that they might succeed on a motion constitutes an insufficient reason to disrupt
 10 the orderly administrative scheduling and case management processes of this Court. Moreover,
 11 the delay sought by Defendants will severely prejudice Plaintiffs, who are vulnerable and
 12 destitute. Further, little if anything will be gained by delay. For these reasons, the administrative
 13 motion should be denied.

14 15 **Delay Would Severely Prejudice Plaintiffs**

16 This lawsuit was filed August 27, 2008, on behalf of a class consisting of people who are
 17 homeless, poverty-stricken, and disabled. Plaintiffs allege that Defendants engage in
 18 discriminatory practices that exclude homeless people with disabilities from shelter beds and
 19 essential shelter services. This continuing conduct that denies at-risk, disabled homeless persons
 20 meaningful access to the emergency shelter beds they desperately need causes them
 21 unimaginable hardship. Any delay in obtaining relief from Defendants’ discriminatory practices
 22 only compounds that hardship by postponing important administrative matters essential to the
 23 orderly and prompt resolution of this lawsuit — whether through litigation or alternative dispute
 24 resolution — just as the worst conditions of the winter season approach.

25 As Plaintiffs allege in detail, every day many homeless disabled people are unable to find
 26 a shelter bed because of Defendants’ conduct. There are approximately three homeless adults
 27 needing emergency shelter for every one of the beds available. Each night, at least 2,800
 28 homeless people sleep without any shelter. As many as eighty percent of homeless persons are

disabled. By operating their emergency shelter and other welfare programs with the express goal of eliminating “the incentive for homeless people who want cash rather than services to congregate” in San Francisco, Defendants effectively screen out men and women with disabilities from the emergency shelter program and deny shelter to many homeless persons solely because of their status as disabled people. At the same time, Defendants deliberately have reduced the already scarce number of shelter beds available to homeless persons, thus further marginalizing the disabled homeless population. Defendants’ systematic exclusion of disabled men and women from their shelter program forces them either to sleep on the street or to compete for access to a shelter bed in a system in which they are severely disadvantaged.

Although a one-month delay may be inconsequential to Defendants, for Plaintiffs it means they must continue to endure intolerable and life-threatening conditions in the streets, alleys, abandoned buildings and public parks of San Francisco.

The Requested Action Would Disrupt the Orderly Process of this Suit

On September 10, 2008, shortly after the filing of this action, the Court issued its scheduling order setting the case management conference for December 5. Accordingly, pursuant to Fed. R. Civ. P. 26(f)(1), the parties would be required to meet and confer no later than November 14. The parties had agreed to meet on November 4, but at Defendants’ request, Plaintiffs extended Defendants the courtesy of several extensions. If the case management conference is continued to January 9, 2009, as Defendants request, the obligation to meet and confer will follow the December 5 hearing on the motion to dismiss by only a couple of weeks. It is unclear whether Defendants expect the Court necessarily to render a decision on their motion to dismiss by that time. In Plaintiffs’ view, it is not at all certain that Defendants’ motion will be decided so quickly. Thus, the “wasted” time and effort Defendants claim they seek to avoid may be necessary even if the Court grants their motion for a continuance.

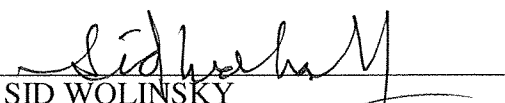
1 Postponing the Case Management Conference Would Delay Any Potential Resolution

2 Furthermore, Defendants' attempt to delay the case management conference, if
 3 successful, also would delay initial disclosures as well as alternative dispute resolution, which
 4 Plaintiffs have repeatedly requested. In addition, a continuance of the case management
 5 conference would preclude Plaintiffs from obtaining information necessary to ascertain whether
 6 to file any motions that might be appropriate. Finally, the amount of time and effort Defendants
 7 seek to avoid is minimal — a single Rule 26 Meet and Confer court appearance on the *same day*
 8 as the hearing on Defendants' motion to dismiss: December 5, 2008.

9 Plaintiffs respectfully submit that the Court's administrative case management
 10 procedures should not be disrupted by Defendants' unilateral hope that they will succeed in
 11 having each and every claim alleged by Plaintiffs dismissed by the Court before January 9, 2009.
 12 Defendants' administrative motion to continue the case management conference should be
 13 denied.

14
 15 Dated: November 6, 2008

16 SID WOLINSKY
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19 By: 
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